



0000154754

RECEIVED

## BEFORE THE ARIZONA CORPORATION COMMISSION

2014 JUL 18 15 1:49

COMMISSIONERSAZ CORP COMMISSION  
DOCKET CONTROL

ORIGINAL

GARY PIERCE, Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

IN THE MATTER OF THE  
APPLICATION OF ARIZONA PUBLIC  
SERVICE COMPANY FOR A  
HEARING TO DETERMINE THE FAIR  
VALUE OF THE UTILITY PROPERTY  
OF THE COMPANY FOR  
RATEMAKING PURPOSES, TO FIX A  
JUST AND REASONABLE RATE OF  
RETURN THEREON, TO APPROVE  
RATE SCHEDULES DESIGNED TO  
DEVELOP SUCH RETURN

Docket No. E-01345A-11-0224

NOTICE OF FILING SURREBUTTAL  
TESTIMONY OF KEVIN C. HIGGINS  
ON BEHALF OF FREEPORT-  
MCMORAN COPPER & GOLD INC.,  
ARIZONANS FOR ELECTRIC  
CHOICE AND COMPETITION,  
NOBLE AMERICAS ENERGY  
SOLUTIONS AND THE KROGER  
CO.

Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and  
Competition (collectively "AECC"), Noble Americas Energy Solutions L.L.C.,  
Constellation NewEnergy, Inc., Direct Energy, L.L.C. and Shell Energy North Americas  
(US) L.P. ("Noble") and The Kroger Co. ("Kroger") hereby submit the Surrebuttal  
Testimony of Kevin C. Higgins on behalf of AECC, Noble and Kroger in the above  
captioned Docket.

...

...

...

...

...

...

Arizona Corporation Commission

DOCKETED

JUL 18 2014

DOCKETED BY

1 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of July 2014.

2  
3 FENNEMORE CRAIG, P.C.

4  
5 By 

6 C. Webb Crockett

7 Patrick J. Black

8 2394 E. Camelback Road, Ste. 600

9 Phoenix, AZ 85016

10 Attorneys for Freeport-McMoRan Copper & Gold  
11 Inc. and Arizonans for Electric Choice and  
12 Competition

13  
14 By \_\_\_\_\_

15 Lawrence V. Robertson, Jr.

16 Of Counsel to Munger Chadwick, PLC

17 Attorney for Noble Americas Energy Solutions

18 L.L.C., Constellation NewEnergy, Inc., Direct

19 Energy, L.L.C. and Shell Energy North Americas

20 (US) L.P.

21  
22 BOEHM, KURTZ & LOWRY

23  
24 By \_\_\_\_\_

25 Kurt J. Boehm

26 Jody M. Kyler

36 East Seventh Street, Suite 1510

Cincinnati, Ohio 45202

Attorneys for The Kroger Co..

1 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of July 2014.

2  
3 FENNEMORE CRAIG, P.C.  
4

5 By \_\_\_\_\_  
6 C. Webb Crockett  
7 Patrick J. Black  
8 2394 E. Camelback Road, Ste. 600  
9 Phoenix, AZ 85016  
10 Attorneys for Freeport-McMoRan Copper & Gold  
11 Inc. and Arizonans for Electric Choice and  
12 Competition

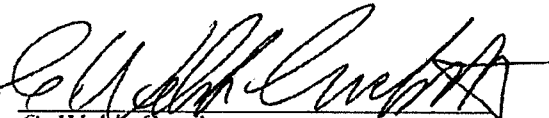
13 By Lawrence V. Robertson, Jr.  
14 Lawrence V. Robertson, Jr.  
15 Of Counsel to Munger Chadwick, PLC  
16 Attorney for Noble Americas Energy Solutions  
17 L.L.C., Constellation NewEnergy, Inc., Direct  
18 Energy, L.L.C. and Shell Energy North Americas  
19 (US) L.P.

20 BOEHM, KURTZ & LOWRY

21 By \_\_\_\_\_  
22 Kurt J. Boehm  
23 Jody M. Kyler  
24 36 East Seventh Street, Suite 1510  
25 Cincinnati, Ohio 45202  
26 Attorneys for The Kroger Co..


1 RESPECTFULLY SUBMITTED this 18<sup>th</sup> day of July 2014.

2  
3 FENNEMORE CRAIG, P.C.

4  
5 By   
6 C. Webb Crockett  
7 Patrick J. Black  
8 2394 E. Camelback Road, Ste. 600  
9 Phoenix, AZ 85016  
10 Attorneys for Freeport-McMoRan Copper & Gold  
11 Inc. and Arizonans for Electric Choice and  
12 Competition

13  
14 By  
15 Lawrence V. Robertson, Jr.  
16 Of Counsel to Munger Chadwick, PLC  
17 Attorney for Noble Americas Energy Solutions  
18 L.L.C., Constellation NewEnergy, Inc., Direct  
19 Energy, L.L.C. and Shell Energy North Americas  
20 (US) L.P.

21 BOEHM, KURTZ & LOWRY

22  
23 By   
24 Kurt J. Boehm  
25 Jody M. Kyler  
26 36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Attorneys for The Kroger Co..

1 **ORIGINAL and 13 COPIES** of the foregoing  
2 **FILED** this 18<sup>th</sup> day of July 2014 with:

3 Docket Control  
4 ARIZONA CORPORATION COMMISSION  
5 1200 West Washington  
6 Phoenix, Arizona 85007

7 **COPY** of the foregoing was **HAND-DELIVERED/**  
8 **MAILED/EMAILED** this 18<sup>th</sup> day of July 2014 to:

9 Lyn Farmer  
10 Chief Administrative Law Judge  
11 Hearing Division  
12 Arizona Corporation Commission  
13 1200 West Washington  
14 Phoenix, Arizona 85007

15 Janice Alward, Chief Counsel  
16 Legal Division  
17 Arizona Corporation Commission  
18 1200 West Washington Street  
19 Phoenix, Arizona 85007

20 Steve M. Olea, Director  
21 Utilities Division  
22 Arizona Corporation Commission  
23 1200 West Washington Street  
24 Phoenix, Arizona 85007

25 Meghan H. Grabel  
26 Thomas L. Mumaw  
PINNACLE WEST CAPITAL  
CORPORATION  
400 North 5<sup>th</sup> Street  
P.O. Box 53999, Ms 8695  
Phoenix Arizona 85072-3999  
Attorneys for Arizona Public Service  
Company

Daniel W. Pozefksy  
RUCO  
1110 W. Washington St., Suite 220  
Phoenix, AZ 85007

Michael A. Curtis  
William P. Sullivan  
Melissa A. Parham  
CURTIS, GOODWIN, SULLIVAN,  
UDALL & SCHWAB, P.L.C.  
501 E. Thomas Road  
Phoenix, Arizona 85012

Timothy M. Hogan  
ARIZONA CENTER FOR LAW  
IN THE PUBLIC INTEREST  
202 E. McDowell Rd., Suite 153  
Phoenix, Arizona 85004

Jeff Schlegel  
SWEEP Arizona Representative  
1167 W. Samalayuca Dr.  
Tucson, Arizona 85704-3224

David Berry  
WESTERN RESOURCE ADVOCATES  
PO Box 1064  
Scottsdale, Arizona 85252

Barbara Wyllie-Pecora  
14410 West Gunsight Drive  
Sun City West, Arizona 85375

Jeffrey W. Crockett  
BROWNSTEIN HYATT FARBER  
SCHRECK LLP  
40 North Central Avenue, 14<sup>th</sup> Floor  
Phoenix, Arizona 85004

1 Michael W. Patten  
2 ROSHKA DEWULF & PATTEN,  
3 PLC  
4 One Arizona Center  
5 400 East Van Buren Street, Suite 800  
6 Phoenix, Arizona 85004  
7 Attorneys for Tucson Electric Power  
8 Company  
9  
10 Bradley S. Carroll  
11 TUCSON ELECTRIC POWER  
12 COMPANY  
13 One South Church Avenue, Suite UE  
14 201  
15 Tucson, Arizona 85701  
16  
17 Cynthia Zwick  
18 1940 East Luke Avenue  
19 Phoenix, Arizona 85016  
20  
21 Michael M. Grant  
22 GALLAGHER & KENNEDY, PA  
23 2575 E. Camelback Road  
24 Phoenix, Arizona 85016  
25  
26 Gary Yaquinto  
ARIZONA INVESTMENT COUNCIL  
2100 N. Central Avenue, Suite 210  
Phoenix, Arizona 85004  
Karen S. White  
AIR FORCE UTILITY LAW FIELD  
SUPPORT CENTER  
AFLOA/JACL-ULFSC  
149 Barnes Drive  
Tyndall AFB, Florida 32403  
Greg Patterson  
MUNGER CHADWICK  
2390 E. Camelback Road, Suite 240  
Phoenix, Arizona 85016  
Nicholas J. Enoch  
LUBIN & ENOCH, PC  
349 N. Fourth Avenue  
Phoenix, Arizona 85003

Samuel Miller  
USAF Utility Law Field Support Center  
139 Barnes Ave., Ste 1  
Tyndall AFB, Florida 32403

Laura E. Sanchez  
NATURAL RESOURCES DEFENSE  
COUNCIL  
PO Box 287  
Albuquerque, New Mexico 87103

Jay I. Moyes  
MOYES SELLERS & HENDRICKS  
1850 N. Central Avenue, Suite 1100  
Phoenix, Arizona 85004

Jeffrey J. Woner  
K.R. SALINE & ASSOC., PLC  
160 N. Pasadena, Suite 101  
Mesa, Arizona 85201

Scott S. Wakefield  
RIDENOUR, HIENTON & LEWIS,  
PLLC  
201 N. Central Avenue, Suite 3300  
Phoenix, Arizona 85004

Steve W. Chriss  
Wal-Mart Stores, Inc.  
2011 S.E. 10th Street  
Bentonville, Arkansas 72716

Craig A. Marks  
CRAIG A. MARKS, PLC  
10645 N. Tatum Boulevard  
Suite 200-676  
Phoenix, Arizona 85028

Douglas V. Fant  
3655 W. Anthem Way  
Suite A-109, PMB 411  
Anthem, Arizona 85086

John William Moore, Jr.  
7321 North 16<sup>th</sup> Street  
Phoenix, Arizona 85020

By: 

9342806/023040.0041

**BEFORE THE ARIZONA CORPORATION COMMISSION**

In the Matter of the Application of Arizona )  
Public Service Company for a Hearing to )  
Determine the Fair Value of the Utility )  
Property of the Company for Ratemaking )  
Purposes, to Fix a Just and Reasonable )  
Rate of Return Thereon, to Approve Rate )  
Schedules Designed to Develop Such Return)

Docket No. E-01345A-11-0224

**Surrebuttal Testimony of Kevin C. Higgins**

**on behalf of**

**Freeport-McMoRan Copper & Gold Inc.,**

**Arizonans for Electric Choice & Competition,**

**Noble Americas Energy Solutions, LLC, and**

**The Kroger Co.**

**July 18, 2014**





1                   **SURREBUTTAL TESTIMONY OF KEVIN C. HIGGINS**

2

3    **INTRODUCTION**

4    **Q.     Please state your name and business address.**

5    A.           Kevin C. Higgins, 215 South State Street, Suite 200, Salt Lake City, Utah,  
6               84111.

7    **Q.     By whom are you employed and in what capacity?**

8    A.           I am a Principal in the firm of Energy Strategies, LLC. Energy Strategies  
9               is a private consulting firm specializing in economic and policy analysis  
10              applicable to energy production, transportation, and consumption.

11   **Q.     Are you the same Kevin C. Higgins who previously filed direct testimony in**  
12       **this proceeding addressing the proposed Four Corners Adjustment Rider?**

13   A.           Yes, I am. My testimony is being sponsored by Freeport-McMoRan  
14               Copper & Gold, Inc., Arizonans for Electric Choice and Competition ("AECC"),<sup>1</sup>  
15               The Kroger Co. ("Kroger"), and Noble Americas Energy Solutions, LLC ("Noble  
16               Solutions").

17

18   **OVERVIEW AND CONCLUSIONS**

19   **Q.     What is the purpose of your surrebuttal testimony in this phase of the**  
20       **proceeding?**

21   A.           My surrebuttal testimony responds to the rebuttal testimony of Arizona  
22               Public Service Company ("APS") witness Leland R. Snook concerning the

---

<sup>1</sup> Henceforth in this testimony, Freeport-McMoRan Copper & Gold Inc. and AECC collectively will be referred to as "AECC."

1 applicability to customers served under Rate Schedule AG-1 of the Four Corners  
2 Adjustment rider proposed by APS.

3 **Q. Please summarize your surrebuttal testimony.**

4 A. I continue to disagree with APS's proposal to apply the Four Corners  
5 Adjustment rider to a portion of the bills paid by customers taking service under  
6 Rate Schedule AG-1. Mr. Snook's characterization of APS's proposal as a  
7 "middle ground" does not make it correct, reasonable or consistent with the 2012  
8 Settlement Agreement approved by the Commission in this docket.

9  
10 **RESPONSE TO MR. SNOOK**

11 **Q. How has APS responded to the arguments you have made regarding the**  
12 **applicability of the Four Corners Adjustment rider to AG-1 customers?**

13 A. Mr. Snook responds to my arguments on pages 9-10 of his rebuttal  
14 testimony. Mr. Snook justifies APS's proposal to charge AG-1 customers for  
15 Four Corners costs as being a "middle ground" between levying the percentage  
16 surcharge against AG-1 customers' total bill (inclusive of AG-1 generation  
17 service) versus not charging AG-1 customers at all for Four Corners costs, as I  
18 have argued is appropriate. Mr. Snook further maintains that "the Settlement  
19 made no distinction between the generation component of a rate schedule and the  
20 other components of base rates" and therefore APS proposed to assess the Four  
21 Corners Surcharge on each element of base rates for each rate schedule.

22 **Q. What is your response to Mr. Snook?**

23 A. I agree that APS's proposal is a sort of "middle ground": it sits in between  
24 my proposal on the one hand and an extreme proposition (to charge AG-1

1 customers a surcharge for APS's Four Corners costs as a mark-up on their  
2 generation costs paid to third-party providers) that no party to this proceeding has  
3 advocated. Simply being "in between" these two positions does not make APS's  
4 proposal correct, reasonable, or consistent with the 2012 Settlement Agreement.  
5 Rather, it is important to view the appropriate treatment of AG-1 customers  
6 within the full context of the 2012 Settlement Agreement, which as I have  
7 explained in my direct testimony, expressly exempts these customers from APS's  
8 generation charges.

9 Further, I disagree with Mr. Snook's characterization that the 2012  
10 Settlement Agreement made no distinction between the generation component of  
11 a rate schedule and the other components of base rates. As I noted in my direct  
12 testimony, Attachment J to the 2012 Settlement Agreement, which is the AG-1  
13 rate schedule negotiated by the parties, states: "All provisions, charges and  
14 adjustments in the customer's applicable retail rate schedule will continue to apply  
15 except as follows:...." The very first exception listed states: "The generation  
16 charges will not apply." Based on the plain reading of this provision, it is  
17 apparent that the 2012 Settlement Agreement intended to exempt AG-1 customers  
18 from generation charges generally – base rates as well as any additional  
19 generation charges added through a rider, unless expressly stated otherwise.  
20 APS's proposal, irrespective of whether it is a sort of "middle ground," is  
21 inconsistent with this basic tenet of the Settlement Agreement.

22 **Q. Does this conclude your surrebuttal testimony?**

23 **A.** Yes, it does.